

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
WHITE PLAINS DIVISION

IN RE

MARY CHARLOTTE FETEIRA A/K/A
MARY FETEIRA A/K/A MARY C. FETEIRA

CHAPTER 13

CASE NO. 18-23110-shl

JUDGE: Sean H. Lane

DEBTOR

**RESPONSE TO DEBTOR'S MOTION TO SELL PROPERTY FREE AND
CLEAR OF LIENS UNDER SECTION 363(F)**

JPMorgan Chase Bank, National Association ("Chase" or "Secured Creditor"), holding a secured claim against the above named Debtor, hereby responds to Debtor's Motion to Sell Property Free and Clear of Liens Under Section 363(f) and would state the following:

JPMorgan Chase Bank, National Association holds a secured claim secured by a first mortgage on the Debtors' principal residence described as follows, to wit:

SBL 69.6-1-26 ALL THAT CERTAIN PLOT PIECE OR PARCEL OF LAND WITH THE BUILDINGS AND IMPROVEMENTS THEREON ERECTED SITUATE LYING AND BEING AT WEST NYACK TOWN OF CLARKSTOWN COUNTY OF ROCKLAND BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT AN IRON PIN SET IN THE EASTERLY LINE OF OLD MILL ROAD SAID IRON PIN MARKING A SOUTHWEST CORNER OF LANDS NOW OR FORMERLY OF JEROME TRACHTENBERG AND ALSO BEING LOCATED SOUTH 9 DEGREES 27' 00" WEST 88.88 FEET FROM A ROCKLAND COUNTY HIGHWAY MONUMENT FROM SAID IRON PIN RUNNING; THENCE ALONG LANDS OF SAID JEROME TRACHTENBERG SOUTH 75 DEGREES 00' 00" EAST 150.00 FEET TO AN IRON PIN; THENCE STILL ALONG JEROME TRACHTENBERG'S LAND AND ALONG A LINE OF HEDGE AND SPRUCE TREES SOUTH 9 DEGREES 27' 00" WEST 68.50 FEET TO AN IRON PIN SET IN A STONE WALL; THENCE ALONG A STONE WALL AND LANDS NOW OR FORMERLY OF FLORA TRACHTENBERG NORTH 76 DEGREES 00' 00" WEST 150.00 FEET TO AN IRON PIN SET IN THE EASTERLY LINE OF OLD MILL ROAD; THENCE ALONG THE EASTERLY LINE OF OLD MILL ROAD NORTH 9 DEGREES 27' 00" EAST 88.50 FEET TO AN IRON PIN TO THE POINT OR PLACE OF BEGINNING.

PROPERTY ADDRESS: 226 Old Mill Road, West Nyack, NY 10994 (the “Property”)

The Motion proposes a sale of the Property pursuant to Section 363(b), and proposes that the sale of the Property be free and clear of all liens pursuant to Section 363(f).

The Debtor bases their assertion that a free and clear sale is permissible under Section 363(f)(5), which states that the entity holding the lien could be compelled in a legal or equitable proceeding to accept money satisfaction of its lien. Chase disagrees with the Debtor’s case in principle, but is willing to waive its objection to the Debtor’s request pursuant to Section 363(f) as long as the Debtor consents to language providing that Chase is to be paid in full from the proceeds of sale as set forth below.

The Debtor’s Motion appears to contemplate payment in full to Chase, and estimates the payoff to Chase at \$153,103.57. As of September 3, 2021, the total payoff due to Chase is estimated to be \$155,272.06, but a full payoff quote will need to be obtained prior to closing.

Secured Creditor would have no objection to the sale of this Property if, and only if, the property is sold for enough to pay the debt owed to Secured Creditor in full, or in the event a short payoff is expected, Secured Creditor must approve the final terms of the sale.

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Secured Creditor respectfully requests the any Order granting the sale include a provision stating that the closing and receipt of funds must be no later than 180 days from the date of the Order.

WHEREFORE, Chase requests that any order allowing the sale of the subject property be conditioned upon the debt owed to JPMorgan Chase Bank, National Association being paid in full and that a timeframe for the sale of the property is established.

Dated: September 8, 2021
Merrick, New York

/s/ Robert W. Griswold
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CERTIFICATE OF SERVICE

The undersigned certifies that on September 8, 2021, a copy of the Response to Debtor's Motion to Sell Property Free and Clear of Liens Under Section 363(f) was caused to be mailed by ordinary U.S. Mail, postage prepaid, and/or electronically upon the following:

Debtor
Mary Charlotte Feteira
226 Old Mill Rd
West Nyack, NY 10994

Co-Debtor
Paulo Feteira
226 Old Mill Rd
West Nyack, NY 10994

Attorney for Debtor
Michael H. Schwartz
Michael H. Schwartz, P.C.
One Barker Avenue, 2nd Floor
White Plains, NY 10601

Trustee
Krista M. Preuss
Chapter 13 Standing Trustee
399 Knollwood Road
White Plains, NY 10603

U.S. Trustee - Brooklyn
U.S. Federal Office Building
201 Varick Street, Suite 1006
New York, NY 10014

Dated: September 8, 2021
Merrick, NY

/s/ Robert W. Griswold
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